

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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EMPLOYERS INSURANCE OF WAUSAU,

Plaintiff,

v.

Civil Action No. K86-48  
Hon. Robert J. Jonker

McGRAW-EDISON CO. *et al.*,

Defendants,

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*Attorneys for Third-Party Defendants Columbia Casualty  
Company, OneBeacon Insurance Company and  
OneBeacon America Insurance Company*

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**RESPONSE OF COLUMBIA CASUALTY COMPANY, ONEBEACON INSURANCE  
COMPANY, AND ONEBEACON AMERICA INSURANCE COMPANY TO RESPONSE  
OF COUNSEL TO COURT ORDER OF DECEMBER 4, 2014**

Third-Party Defendants Columbia Casualty Company (“Columbia”), OneBeacon Insurance Company, and OneBeacon America Insurance Company (collectively “OneBeacon”) respectfully file this Response to the “Response of Counsel to Court Order of December 4, 2014,” [Dkt. # 383] (the “Response”) solely for the purpose of providing the Court with an appropriate record of certain facts referenced in the Response. The Response says in material part:

[T]he decision to file the motion [seeking an injunction in New Jersey] was made weeks ago in response to the efforts of defendants to avoid resolving issues in the New Jersey case by filing actions in other jurisdictions. Before filing the motion to enforce in this Court, the defendants had filed actions in Texas and Illinois seeking to address issues within the purview of the New Jersey case. . . .

[Dkt. # 383, at 1].

Columbia and OneBeacon file this paper to explain the facts related to the alleged “actions” filed by the “defendants” in Texas and Illinois. We understand the Response to be referring to activity in two cases: (1) *Cooper Industries, Inc. v. Continental Casualty Co., et al.*, Case No. 4:13-CV-00575 (S.D. Tex.) (the “Texas Case”); and (2) *Employers Insurance Co. v. McGraw-Edison Co., et al.*, Case No. 91-MR-0256 (Ill. Cir. Ct., DuPage Cty) (the “Illinois Case”). The Texas Case was filed by Cooper Industries, LLC (“Cooper”) against affiliates of Columbia (the “CNA Companies”) (but not affiliates of OneBeacon or any other party in this case) in relation to Cooper’s assertion that those parties had an obligation to defend certain asbestos personal injury suits against Cooper. During the course of the Texas Case, the CNA Companies filed counterclaims. Those counterclaims are attached for the Court’s reference (as “Exhibit A”). As stated in that document, as of the time the counterclaims were filed Cooper had filed numerous lawsuits in various jurisdictions around the United States in connection with so-called “long-tail claims,” like asbestos claims and pollution claims. The CNA Companies sought

several different forms of relief from the Texas district court. Among other things, they asked for declaratory relief on the meaning and effect of the “sudden and accidental” pollution exclusion contained in some of the policies and on the question of whether Cooper had insurance rights under policies issued to McGraw-Edison Company. Those issues are, in part, related to matters pending in the New Jersey cases brought by Cooper – along with other actions filed by Cooper. The Texas Case was dismissed by the Texas district court pursuant to an August 13, 2014, order (attached as “Exhibit B”) as a result of a settlement. There has been no further docket activity in the Texas Case since August, and the CNA Companies took no action in that case to preclude the litigation of claims in the multiple venues in which they have been sued by Cooper.

The Illinois Case was filed in the Circuit Court of DuPage County, Illinois in 1991 by Employers Insurance Company of Wausau. Wausau is unaffiliated with either Columbia or OneBeacon. Columbia and OneBeacon are constrained in explaining the proceedings in the Illinois Case because Cooper and other parties stipulated in the 1990’s to have the *entire record* of that case sealed after Columbia was dismissed from the case by court order. In fact, the activity in the Illinois case – which has only been on behalf of Columbia – has been directed solely at seeking relief from the Illinois circuit court in connection with the protective order and sealing order entered in that case. Columbia filed its motion papers seeking that relief so court orders, discovery, and court filings in that case could be used in the New Jersey litigation. On October 16, 2014, an agreed order was entered in the Illinois Case, with the consent of Cooper and Columbia, that created a procedure to resolve whether documents can be used outside of the Illinois Case. That order, like every piece of paper in the Illinois Case, is under seal, and

unfortunately cannot be provided to this Court. There has been no activity in the Illinois Case related to Columbia following the entry of the agreed order.

Dated: December 12, 2014

Respectfully submitted,

/s/ Clinton E. Cameron

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OneBeacon America Insurance Company*

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**CERTIFICATE OF SERVICE**

I, Clinton E. Cameron, hereby certify that a true and correct copy of the foregoing  
*Response of Columbia Casualty Company, OneBeacon Insurance Company, and OneBeacon  
America Insurance Company to Response of Counsel to Court Order Of December 4, 2014*, and  
the documents referenced therein, will be served on the 12th day of December, 2014, via United  
States Mail, postage prepaid, upon the following entities:

Entity	Address for Service (Registered Agent)	Address for Service (ECF Service List)
McGraw-Edison	The Corporation Trust Company Corporation Trust Center 1209 Orange St. Wilmington DE 19801	Michael H. Ginsberg Jones Day (PA) 500 Grant St., Ste. 4500 Pittsburgh, PA 15219 (412) 391-3939  J. Spencer Dreischarf 4000 First City Tower P.O. Box 4446 Houston, TX 77210 (713) 739-5400  Jack W. Montgomery, III Alder, Cohen & Grigsby 625 Liberty Ave., 2900 CNG Tower Pittsburgh, PA 15222 (412) 394-4900  Roger K. Timm Dykema Gossett, PLLC 400 Renaissance Ctr., Ste. 3400 Detroit, MI 48243-1668 (313) 568-6852 rtimm@dykema.com
Cooper Industries		Michael H. Ginsberg Jones Day (PA) 500 Grant St., Ste. 4500 Pittsburgh, PA 15219 (412) 391-3939 mhginsberg@jonesday.com
Insurance Company of North America	The Corporation Company 30600 Telegraph Road Bingham Farms, MI 48025	Margaret J. Arbon Clausen, Miller, Gorman, Caffrey, et al 10 S LaSalle St., 18th Fl. Chicago, IL 60603-1098 (312) 606-7480
First State Insurance Company	The Corporation Trust Company	Claudia Babiarz 3260 Kernway Ct., Ste. 120

	Corporation Trust Center 1209 Orange St. Wilmington DE 19801	Bloomfield Hills, MI 48013 (248) 646-5829  Amy Gallent Melito & Adolfsen, PC 233 Broadway, Woolworth Bldg. New York, NY 10279-0118 (212) 238-8900
United States Fire Insurance Company		Brian C. Coffey Cohn Baughman & Martin 333 W Wacker Dr., Ste. 900 Chicago, IL 60606 (312) 775-3900 brian.coffey@mclolaw.com
Commercial Union Insurance Company		Clinton E. Cameron Troutman Sanders LLP 55 West Monroe Street Chicago IL 60603 312.759.1920 (p) clinton.cameron@troutmansanders.com
Lexington Insurance Company		Charles W. Browning Plunkett Cooney (Bloomfield Hills) 38505 Woodward Ave., Ste. 2000 Bloomfield Hills, MI 48304 (248) 901-4000 Fax: (248) 901-4040 <a href="mailto:cbrowning@plunkettcooney.com">cbrowning@plunkettcooney.com</a>
American Home Insurance Company		Charles W. Browning Plunkett Cooney (Bloomfield Hills) 38505 Woodward Ave., Ste. 2000 Bloomfield Hills, MI 48304 (248) 901-4000 Fax: (248) 901-4040 <a href="mailto:cbrowning@plunkettcooney.com">cbrowning@plunkettcooney.com</a>
National Union Fire Insurance Company of Pittsburgh, PA		Charles W. Browning Plunkett Cooney (Bloomfield Hills) 38505 Woodward Ave., Ste. 2000 Bloomfield Hills, MI 48304 (248) 901-4000 Fax: (248) 901-4040 <a href="mailto:cbrowning@plunkettcooney.com">cbrowning@plunkettcooney.com</a>

Granite State Insurance Company		Charles W. Browning Plunkett Cooney (Bloomfield Hills) 38505 Woodward Ave., Ste. 2000 Bloomfield Hills, MI 48304 (248) 901-4000 Fax: (248) 901-4040 cbrowning@plunkettcooney.com
AIU Insurance Company	RESIDENT AGENT CSC-Lawyers Incorporating Service Co 601 Abbot Road East Lansing, MI 48823 (800) 833-9848	
Allianz Insurance Company	The Corporation Company 30600 Telegraph Road Bingham Farms, MI 48025	
Associated International Insurance Company	10 Parkway North Deerfield, IL 60015	
Columbia Casualty Company		Clinton E. Cameron Troutman Sanders LLP 55 West Monroe Street Chicago IL 60603 312.759.1920 (p) clinton.cameron@troutmansanders.com
New England Insurance Company	Resident Agent The Corporation Company 30600 Telegraph Road, Suite #2345 Bingham Farms, MI 48025 (248) 646-9033	
Allstate Insurance Company (Northbrook Excess & Surplus Insurance Company)	Resident Agent The Corporation Company 30600 Telegraph Rd., #2345 Bingham Farms, MI 48025	Dowd & Dowd Ltd 55 W Wacker Dr., Ste. 1000 Chicago, IL 60601-1699 (312) 704-4400  James R. Piggush Denenberg, Tuffley, Bocan, Jamieson, et al 2851 Charlevoix Dr., SE, Ste. 300 P.O. Box 876 Grand Rapids, MI 49588-0876 (616) 942-5544 piggushj@michigan.gov



Home Insurance Company <i>(in liquidation (NH))</i>		Robert S. Cubbin Plunkett & Cooney, PC 38505 Woodward Ave., Ste. 2000 Bloomfield Hills, MI 48304 (248) 901-4000
Employers Insurance Company of Wausau	CSC-Lawyers Incorporating Service Co 601 Abbot Road East Lansing, MI 48823	Paul L. Gingras Zelle, Hofmann, Voelbel & Gette, LLP 33 S 6th St., Ste. 4400 Minneapolis, MN 55402 (612) 339-2020  Charles W. Browning Plunkett Cooney (Bloomfield Hills) 38505 Woodward Ave., Ste. 2000 Bloomfield Hills, MI 48304 (248) 901-4000 Fax: (248) 901-4040 cbrowning@plunkettcooney.com  Gregory G. Prasher Prasher Law Group 429 Turner Ave., NW Grand Rapids, MI 49504 (616) 454-7780 greg@prasherlaw.com

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